UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,822	04/18/2000	Charles Steven Lingafelt	RAL9-2000-0059US1	2668

47052 7590 09/22/2004	EXAMINER	
SAWYER LAW GROUP LLP	HA, LEYNNA A	
PO BOX 51418	ART UNIT	PAPER NUMBER
PALO ALTO, CA 94303	2135	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/551,822	LINGAFELT ET AL.
	Examiner	Art Unit
	LEYNNA T. HA	2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 May 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-25</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) <u>18-25</u> is/are allowed.

6)☒ Claim(s) <u>1-17</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

1. Claims 1-25 have been re-examined. This is a Non-Final rejection.

2. Claim 17 is rejected under 35 U.S.C. 112, 2nd paragraph.

3. Claims 1-17 have been rejected under non-statutory double patenting.

4. Claims 18-25 are allowed.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: claim 17 is claiming dependency to claim 10 but should be dependent onto claim 13. Claim 17 claims "the analysis bit of strings" which claim 13 recites the same limitation, but claim 10 does not.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6.   Claims 1-4, 10-11, and 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,671,725. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-3 of '822 together recites the claim limitations of claim 1 of '725. Claim 2 and claim 3 of '822 teaches the interface processors, instruction memory, data memory, and input/output ports are comprised within a network processor and are formed on the semiconductor substrate completes the limitations of claim 1 of '725. Claim 1 of '822 does not recite a server farm as how claim 1 of '725 has claimed. However, it would have been obvious to include a server farm with the claims limitations of '822 because it provides bulk computing for specific applications to group of networked servers.

Claims 10-11 of '822 together recites the claim limitations of claim 1 of
'725. Claim 2 and claim 3 of '822 teaches the interface processors, instruction
memory, data memory, and input/output ports are comprised within a network
processor and are formed on the semiconductor substrate completes the
limitations of claim 1 of '725. Claim 1 of '822 does not recite a server farm as
how claim 1 of '725 has claimed. However, it would have been obvious to
include a server farm with the claims limitations of '822 because it provides
bulk computing for specific applications to group of networked servers.

Claims 4 and 12 of '822 recites the same limitation in claim 5 of '725.

**7.   Claims 5-9 and 13-17 are rejected under the judicially created
doctrine of obviousness-type double patenting as being unpatentable over
claim 1 of U.S. Patent No. 6,671,725 in view of Chen, et al. (US
5,960,170).**

Claim 5 of '822 recites a option card and in combination with Chen, et al.
recites the limitation analyzing by scanning the bit strings for the presence of
predetermined indicator bit sequences (col.13, line 3 thru col.14, line 67). It
would have been obvious for one of ordinary skill in the art to scan for the
presence of predetermined indicator bit sequences because to determine
whether the system or file is infected that allows a reduction in time/amount of

information required for transmission and the possible number of viruses residing in the targeted files (col.13, lines 7-23 and 43-66).

Claims 6 of '822 in combination with Chen recites the limitation of an option card that analyses bit strings for virus signatures. It would have been obvious to include the teaching to Chen of the virus signatures because the signatures identifies the infected programs and files and that the new forms of viruses can be detected apart from the referenced or known viruses (col.1, lines 34-45).

Claim 7 of '822 recites a option card and in combination with Chen, et al. recites the limitation analyzing by scanning the bit strings for the presence of predetermined indicator bit sequences (col.13, line 3 thru col.14, line 67). It would have been obvious for one of ordinary skill in the art to scan for the presence of predetermined indicator bit sequences because to determine whether the system or file is infected that allows a reduction in time/amount of information required for transmission and the possible number of viruses residing in the targeted files (col.13, lines 7-23 and 43-66).

Claim 8 of '822 in combination with Chen recites the portions of the bit strings to be barred from passage (col.27, lines 27-34). It would have been obvious for the portions of the strings to be barred from passage upon the determined sequence of the predetermined indicator bit sequences because to prevent the files from infection.

Claim 9 of '822 and Chen wherein it is obvious the analysis of bit strings
proceeds at the speed of data flow to the option card (col.24, lines 46-57).

Claim 13 of '822 recites a option card and in combination with Chen, et
al. recites the limitation analyzing by scanning the bit strings for the presence
of predetermined indicator bit sequences (col.13, line 3 thru col.14, line 67). It
would have been obvious for one of ordinary skill in the art to scan for the
presence of predetermined indicator bit sequences because to determine
whether the system or file is infected that allows a reduction in time/amount of
information required for transmission and the possible number of viruses
residing in the targeted files (col.13, lines 7-23 and 43-66).

Claim 14 of '822 recites a option card and in combination with Chen, et
al. recites the limitation analyzing by scanning the bit strings for the presence
of predetermined indicator bit sequences (col.13, line 3 thru col.14, line 67). It
would have been obvious for one of ordinary skill in the art to scan for the
presence of predetermined indicator bit sequences because to determine
whether the system or file is infected that allows a reduction in time/amount of
information required for transmission and the possible number of viruses
residing in the targeted files (col.13, lines 7-23 and 43-66).

Claim 15 of '822 recites a option card and in combination with Chen, et
al. recites the limitation analyzing by scanning the bit strings for the presence
of predetermined indicator bit sequences (col.13, line 3 thru col.14, line 67). It
would have been obvious for one of ordinary skill in the art to scan for the

presence of predetermined indicator bit sequences because to determine whether the system or file is infected that allows a reduction in time/amount of information required for transmission and the possible number of viruses residing in the targeted files (col.13, lines 7-23 and 43-66).

Claim 16 of '822 in combination with Chen recites the portions of the bit strings to be barred from passage (col.27, lines 27-34). It would have been obvious for the portions of the strings to be barred from passage upon the determined sequence of the predetermined indicator bit sequences because to prevent the files from infection.

Claim 17 of '822 and Chen wherein it is obvious the analysis of bit strings proceeds at the speed of data flow to the option card (col.24, lines 46-57).

Allowable Subject Matter

8.   Claims 18-25 are allowed over art.

9.   The following is an examiner's statement of reasons for allowance:

Prior art also fails to disclose a plurality of DASD devices where amongst the DASD devices, the network processor having a plurality of interface processors, instruction memory, data memory, and a plurality of I/O ports for

exchanging data through the network processor with the DASD devices wherein the network processor cooperating with the CPU in directing the exchange of data between the I/O ports and the flow of data through the data memory to and from the DASD devices in response to the execution by the interface processors of instructions loaded into the instruction memory and providing pattern recognition services (i.e. virus signatures) for the flow of data.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEYNNA T. HA whose telephone number is (703) 305-3853. The examiner can normally be reached on Monday - Thursday (7:00 - 5:00PM).
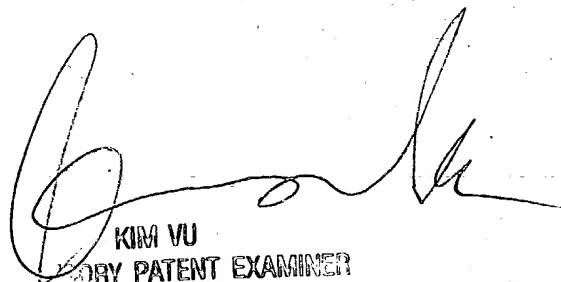
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (703) 305-4393. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***TC 2100 will be moved to Carlyle in October 2004. At this time, any inquiry or communications should be directed to the examiner, LEYNNA HA, whose new telephone number is (571) 272-3851 and the new telephone number for TC 2100 receptionist is 571-272-2100.

LHa

KIM VU
ORY PATENT EXAMINER
NOLOGY CENTER 2100